

136.520 Conditions constituting regularly engaging in business in the Commonwealth by financial institutions.

- (1) A financial institution is presumed to be regularly engaging in business in this Commonwealth if during any taxable year it obtains or solicits business with twenty (20) or more persons within this Commonwealth, or if receipts attributable to sources in this Commonwealth as would be determined pursuant to the provisions of KRS 136.530(2) equals or exceeds one hundred thousand dollars (\$100,000). In determining whether a financial institution is regularly engaging in business in this Commonwealth, receipts from the following types of property, as well as those contacts with this Commonwealth reasonably and exclusively required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from it, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property, shall be excluded:
 - (a) An interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company;
 - (b) An interest in a loan-backed security representing ownership or participation in a pool of promissory notes or certificates of interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates;
 - (c) An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial loan, or a secured commercial loan, and in which the payment obligations were solicited and entered into by a person that is independent, and not acting on behalf of the owner;
 - (d) An interest in the right to service or collect income from a loan or other asset from which interest on the loan is attributed as a loan described in paragraph (c) of this subsection, and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner; and
 - (e) Any amounts held in an escrow or trust account with respect to property described in paragraphs (a) to (d) of this subsection.
- (2) Subsection (1) of this section shall be interpreted to reach to the limits permitted by the United States Constitution.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 254, sec. 6, effective July 15, 1996.